

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|---------------------------|---|------------------------|
| UNITED STATES OF AMERICA, |) | Case No.: 4:04CR3152 & |
| |) | 4:04CR3157 |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | MEMORANDUM |
| |) | AND ORDER |
| SIMON OTERO, |) | |
| |) | |
| Defendant. |) | |
| |) | |

Pursuant to NELR § 79.1(c) and the Standing Order Regarding Custody of Criminal Exhibits-Post Trial (General Order 2001 - 05 Amended),

IT IS ORDERED that:

1. As soon as possible, but not later than ten (10) days after a verdict has been rendered, all exhibits, whether offered by the United States or the defendant, shall be withdrawn from the clerk by the attorney who offered the exhibits. Except as indicated in the following sentence, counsel shall maintain custody of said exhibits until the disposal order contemplated by paragraph 3 has been entered. However, in the case of counsel for the United States, said counsel may deliver the exhibits to the appropriate state or federal agency. In that case, the agency shall become subject to this order.
2. Any attorney taking any exhibits pursuant to this order shall give a receipt to the clerk for such documents.
3. All exhibits thus withdrawn shall be retained until at least six (6) months after the case has become final and is no longer subject to appellate review. After that time, the attorney or agency holding the exhibits shall

file and serve a motion for an order to destroy or otherwise dispose of any such exhibits. The opposing party shall have ten (10) days after service to respond to the motion. The court may then enter an appropriate order. Until the court enters such a disposal order, the exhibits shall be maintained in the same state and condition as when the exhibits were offered into evidence.

4. The United States, including the appropriate agency of the state or federal government, may store the exhibits at any location within or outside the District of Nebraska.
5. Until a disposal order is entered in accordance with paragraph 3, any attorney or agency holding exhibits shall make the exhibits available to opposing counsel for examination and use by such attorney at reasonable times and places upon request by opposing counsel.
6. Until a disposal order is entered in accordance with paragraph 3, at the request of the clerk, any attorney or agency having custody of exhibits shall return the exhibits to the clerk.
7. Notwithstanding the entry of judgment, this court retains jurisdiction over the parties, agencies and attorneys for purposes of assuring compliance with this order.

DATED this 1st day of July, 2005.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge